

AMENDED IN SENATE AUGUST 22, 2014

AMENDED IN SENATE AUGUST 4, 2014

AMENDED IN SENATE JULY 1, 2014

AMENDED IN SENATE JUNE 12, 2014

AMENDED IN ASSEMBLY MAY 27, 2014

AMENDED IN ASSEMBLY MAY 7, 2014

AMENDED IN ASSEMBLY APRIL 21, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1594

Introduced by Assembly Member Williams

February 3, 2014

An act to amend ~~Section~~ *Sections 40507 and 41781.3* of the Public Resources Code, relating to solid waste.

LEGISLATIVE COUNSEL'S DIGEST

AB 1594, as amended, Williams. ~~Solid waste: recycling: diversion: green material.~~ *Waste management.*

The California Integrated Waste Management Act of 1989, which is administered by the Department of Resources Recycling and Recovery, establishes an integrated waste management program. The act requires *the department to file an annual report, on or before March 1 of each year, with the Legislature, regarding the administration of the act during the prior calendar year.*

This bill would require the department to include in the annual report, on or before March 1, 2015, a status update on the adequacy of funding

from the Integrated Waste Management Fund for programs implemented pursuant to the act and pursuant to other specified provisions regulating waste management facilities. The bill would authorize the department to recommend alternative funding mechanisms for the programs, as specified.

Existing law requires each city, county, and joint powers authority formed under the act, referred to as a regional agency, to develop a source reduction and recycling element of an integrated waste management plan. The act requires the source reduction and recycling element to divert from disposal 50% of all solid waste subject to the element through source reduction, recycling, and composting activities, with specified exceptions. Under the act, the use of solid waste for beneficial reuse in the construction and operation of a solid waste landfill, including the use of alternative daily cover, constitutes diversion through recycling and is not considered disposal.

This bill, commencing January 1, 2020, would provide that the use of green material, as defined, as alternative daily cover does not constitute diversion through recycling and would be considered disposal for purposes of the act. The bill, commencing August 1, 2018, would require a local jurisdiction to include information in an annual report on how the local jurisdiction intends to address these diversion requirements and divert green material that is being used as alternative daily cover. The bill would require a jurisdiction that does not meet certain diversion requirements as a result of not being able to claim diversion for the use of green material as alternative daily cover to identify and address, in an annual report, barriers to recycling green material and, if sufficient capacity at facilities that recycle green material is not expected to be operational before a certain date, to include a plan to address those barriers. The bill would impose a state-mandated local program by imposing new duties upon local agencies with regard to the diversion of solid waste.

Existing law requires the operator of a disposal facility to pay a quarterly fee based on the amount of solid waste disposed of at each disposal site.

This bill would provide that, commencing January 1, 2020, green material used as alternative daily cover at a solid waste landfill is not subject to this fee.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 *SECTION 1. Section 40507 of the Public Resources Code is*
2 *amended to read:*

3 40507. (a) (1) On or before March 1 of each year, the ~~board~~
4 *department* shall file an annual report with the Legislature
5 highlighting significant programs or actions undertaken by the
6 ~~board department~~ to implement programs pursuant to this division
7 during the prior calendar year. The report shall include, but is not
8 limited to, the information described in subdivision (b).

9 (2) *On or before March 1, 2015, the department shall provide*
10 *in the annual report required pursuant to paragraph (1) a status*
11 *update on the adequacy of funding from the Integrated Waste*
12 *Management Fund for programs implemented pursuant to this*
13 *division or Division 31 (commencing with Section 50000),*
14 *including the adequacy of funding for the oversight of solid waste*
15 *that is accepted at a disposal facility and is not subject to the fee*
16 *imposed pursuant to Section 48000. In its report, the department*
17 *may recommend alternative funding mechanisms for the programs*
18 *that would achieve the requirements and policy goals of this*
19 *division and Division 31 (commencing with Section 50000),*
20 *including the statewide recycling goal of 75 percent pursuant to*
21 *Section 41780.01.*

22 (b) ~~Commencing January 1, 1997, the board~~ *The department*
23 shall file annual progress reports with the Legislature covering the
24 activities and actions undertaken by the ~~board~~ *department* in the
25 prior fiscal year. The ~~board department~~ shall prepare, and may
26 electronically file with the Legislature, the progress reports
27 throughout the calendar year, as determined by the ~~board,~~
28 ~~department,~~ on the following programs:

- 29 (1) The local enforcement agency program.
30 (2) The research and development program.
31 (3) The public education program.
32 (4) The market development program.
33 (5) The used oil program.

1 (6) The planning and local assistance program.

2 (7) The site cleanup program.

3 (c) The progress report shall specifically include, but is not
4 limited to, all of the following information:

5 (1) Pursuant to paragraph (1) of subdivision (b), the status of
6 the certification and evaluation of local enforcement agencies
7 pursuant to Chapter 2 (commencing with Section 43200) of Part
8 4.

9 (2) Pursuant to paragraph (2) of subdivision (b), all of the
10 following information:

11 (A) The results of the research and development programs
12 established pursuant to Chapter 13 (commencing with Section
13 42650) of Part 3.

14 (B) A report on information and activities associated with the
15 establishment of the Plastics Recycling Information Clearinghouse,
16 pursuant to Section 42520.

17 (C) A report on the progress in implementing the monitoring
18 and control program for the subsurface migration of landfill gas
19 established pursuant to Section 43030, including recommendations,
20 as needed, to improve the program.

21 (D) A report on the comparative costs and benefits of the
22 recycling or conversion processes for waste tires funded pursuant
23 to Chapter 17 (commencing with Section 42860) of Part 3.

24 (3) Pursuant to paragraph (3) of subdivision (b), all of the
25 following information:

26 (A) A review of actions taken by the ~~board~~ *department* to
27 educate and inform individuals and public and private sector
28 entities who generate solid waste on the importance of source
29 reduction, recycling, and composting of solid waste, and
30 recommendations for administrative or legislative actions ~~which~~
31 *that* will inform and educate these parties.

32 (B) A report on the effectiveness of the public information
33 program required to be implemented pursuant to Chapter 12
34 (commencing with Section 42600) of Part 3, including
35 recommendations on administrative and legislative changes to
36 improve the program.

37 (C) A report on the status and effectiveness of school district
38 source reduction and recycling programs implemented pursuant
39 to Chapter 12.5 (commencing with Section 42620) of Part 3,

1 including recommendations on administrative and legislative
2 changes to improve the program's effectiveness.

3 (D) A report on the effectiveness of the integrated waste
4 management educational program and teacher training plan
5 implemented pursuant to Part 4 (commencing with Section 71300)
6 of Division 34, including recommendations on administrative and
7 legislative changes ~~which~~ *that* will improve the program.

8 (E) A summary of available and wanted materials, a profile of
9 the participants, and the amount of waste diverted from disposal
10 sites as a result of the California Materials Exchange Program
11 established pursuant to subdivision (a) of Section 42600.

12 (4) Pursuant to paragraph (4) of subdivision (b), all of the
13 following information:

14 (A) A review of market development strategies undertaken by
15 the board pursuant to this division to ensure that markets exist for
16 materials diverted from solid waste facilities, including
17 recommendations for administrative and legislative actions ~~which~~
18 *that* will promote expansion of those markets. The
19 recommendations shall include, but not be limited to, all of the
20 following:

21 (i) Recommendations for actions to develop more direct liaisons
22 with private manufacturing industries in the state to promote
23 increased utilization of recycled feedstock in manufacturing
24 processes.

25 (ii) Recommendations for actions ~~which~~ *that* can be taken to
26 assist local governments in the inclusion of recycling activities in
27 county overall economic development plans.

28 (iii) Recommendations for actions to utilize available financial
29 resources for expansion of recycling industry capacity.

30 (iv) Recommendations to improve state, local, and private
31 industry product and material procurement practices.

32 (B) Development and implementation of a program to assist
33 local agencies in the identification of markets for materials that
34 are diverted from disposal facilities through source reduction,
35 recycling, and composting pursuant to Section 40913.

36 (C) A report on the Recycling Market Development Zone Loan
37 Program conducted pursuant to Article 3 (commencing with
38 Section 42010) of Chapter 1 of Part 3.

1 (D) A report on implementation of the Compost Market Program
2 pursuant to Chapter 5 (commencing with Section 42230) of Part
3 3.

4 (E) A report on the progress in developing and implementing
5 the comprehensive Market Development Plan, pursuant to Article
6 ~~2 of Chapter 1~~ (commencing with Section 42005) *of Chapter 1* of
7 Part 3.

8 (F) The number of retreaded tires purchased by the Department
9 of General Services during the prior fiscal year pursuant to Section
10 42414.

11 (G) The results of the study performed in consultation with the
12 Department of General Services pursuant to Section 42415 to
13 determine if tire retreads, procured by the Department of General
14 Services, have met all quality and performance criteria of a new
15 tire, including any recommendations to expand, revise, or curtail
16 the program.

17 (H) The number of recycled lead-acid batteries purchased during
18 the prior fiscal year by the Department of General Services
19 pursuant to Section 42443.

20 (I) A list of established price preferences for recycled paper
21 products for the prior fiscal year pursuant to paragraph (1) of
22 subdivision (c) of Section 12162 of the Public Contract Code.

23 (J) A report on the implementation of the white office paper
24 recovery program pursuant to Chapter 10 (commencing with
25 Section 42560) of Part 3.

26 (5) Pursuant to paragraph (5) of subdivision (b), both of the
27 following information:

28 (A) A report on the annual audit of the used oil recycling
29 program established pursuant to Chapter 4 (commencing with
30 Section 48600) of Part 7.

31 (B) A summary of industrial and lubricating oil sales and
32 recycling rates, the results of programs funded pursuant to Chapter
33 4 (commencing with Section 48600) of Part 7, recommendations,
34 if any, for statutory changes to the program, including changes in
35 the amounts of the payment required by Section 48650 and the
36 recycling incentive, and plans for present and future programs to
37 be conducted over the next two years.

38 (6) Pursuant to paragraph (6) of subdivision (b), all of the
39 following information:

1 (A) The development by the ~~board~~ *department* of the model
2 countywide or regional siting element and model countywide or
3 regional agency integrated waste management plan pursuant to
4 Section 40912, including its effectiveness in assisting local
5 agencies.

6 (B) The adoption by the ~~board~~ *department* of a program to
7 provide assistance to cities, counties, or regional agencies in the
8 development and implementation of source reduction programs
9 pursuant to subdivision (c) of Section 40912.

10 (C) The development by the ~~board~~ *department* of model
11 programs and materials to assist rural counties and cities in
12 preparing city and county source reduction and recycling elements
13 pursuant to Section 41787.3.

14 (D) A report on the number of tires that are recycled or otherwise
15 diverted from disposal in landfills or stockpiles.

16 (E) A report on the development and implementation of
17 recommendations, with proposed implementing regulations, for
18 providing technical assistance to counties and cities that meet
19 criteria specified in Section 41782, so that those counties and cities
20 will be able to meet the objectives of this division. The
21 recommendations shall, among other things, address both of the
22 following matters:

23 (i) Assistance in developing methods of raising revenue at the
24 local level to fund rural integrated waste management programs.

25 (ii) Assistance in developing alternative methods of source
26 reduction, recycling, and composting of solid waste suitable for
27 rural local governments.

28 (F) A report on the status and implementation of the “Buy
29 Recycled” program established pursuant to subdivision (d) of
30 Section 42600, including the waste collection and recycling
31 programs established pursuant to Sections 12164.5 and 12165 of
32 the Public Contract Code.

33 (7) Pursuant to paragraph (7) of subdivision (b), a description
34 of sites cleaned up under the Solid Waste Disposal and Codisposal
35 Site Cleanup Program established pursuant to Article 2.5
36 (commencing with Section 48020) of Chapter 2 of Part 7, a
37 description of remaining sites where there is no responsible party
38 or the responsible party is unable or unwilling to pay for cleanup,
39 and recommendations for any needed legislative changes.

1 ~~SECTION 1.~~

2 *SEC. 2.* Section 41781.3 of the Public Resources Code is
3 amended to read:

4 41781.3. (a) (1) Except as provided in paragraph (2), the use
5 of solid waste for beneficial reuse in the construction and operation
6 of a solid waste landfill, including use of alternative daily cover,
7 which reduces or eliminates the amount of solid waste being
8 disposed pursuant to Section 40124, shall constitute diversion
9 through recycling and shall not be considered disposal for purposes
10 of this division.

11 (2) (A) Commencing January 1, 2020, the use of green material
12 as alternative daily cover does not constitute diversion through
13 recycling and shall be considered disposal for purposes of this
14 division.

15 (B) Commencing January 1, 2020, a local jurisdiction that, as
16 a result of not being able to claim diversion for the use of green
17 material as alternative daily cover, does not meet the requirements
18 of Section 41780 shall, in the next annual report required pursuant
19 to Section 41821, identify and address barriers to recycling green
20 material and, if sufficient capacity at facilities that recycle green
21 material is not expected to be operational before the jurisdiction's
22 next review pursuant to Section 41825, include a plan to address
23 those barriers that are within the control of the local jurisdiction.

24 (C) Commencing January 1, 2020, green material used as
25 alternative daily cover at a solid waste landfill is not subject to the
26 fee imposed on disposed solid waste pursuant to Section 48000.

27 (3) Commencing August 1, 2018, a local jurisdiction shall
28 include in the electronic annual report required pursuant to Section
29 41821 information on how the local jurisdiction intends to address
30 the requirements of subparagraph (A) of paragraph (2) and divert
31 green material that is being used as alternative daily cover.

32 (b) Before December 31, 1997, pursuant to the department's
33 authority to adopt rules and regulations pursuant to Section 40502,
34 the department shall, by regulation, establish conditions for the
35 use of alternative daily cover that are consistent with this division.
36 In adopting the regulations, the department shall consider, but is
37 not limited to consideration of, all of the following criteria:

38 (1) Those conditions established in past policies adopted by the
39 department affecting the use of alternative daily cover.

1 (2) Those conditions necessary to provide for the continued
2 economic development, economic viability, and employment
3 opportunities provided by the composting industry in the state.

4 (3) Those performance standards and limitations on maximum
5 functional thickness necessary to ensure protection of public health
6 and safety consistent with state minimum standards.

7 (c) Until the adoption of additional regulations, the use of
8 alternative daily cover shall be governed by the conditions
9 established by the department in its existing regulations set forth
10 in paragraph (3) of subdivision (b) of, and paragraph (3) of
11 subdivision (c) of, Section 18813 of Title 14 of the California Code
12 of Regulations, as those sections read on January 1, 1997, and by
13 the conditions established in the department's policy adopted on
14 January 25, 1995.

15 (d) In adopting rules and regulations pursuant to this division,
16 including, but not limited to, Part 2 (commencing with Section
17 40900), the department shall provide guidance to local enforcement
18 agencies on any conditions and restrictions on the utilization of
19 alternative daily cover so as to ensure proper enforcement of those
20 rules and regulations.

21 ~~(e) Notwithstanding subparagraph (B) of paragraph (4) of~~
22 ~~subdivision (a), nothing~~ *Nothing* in this section modifies, limits,
23 or abrogates the authority of a local jurisdiction with respect to
24 land use, zoning, or facility siting decisions within that local
25 jurisdiction.

26 (f) For purposes of this section, "green material" has the same
27 meaning as "processed green material," as defined in subdivision
28 (b) of Section 20690 of Title 27 of the California Code of
29 Regulations. The term does not include materials left over from
30 the composting process, materials left over after the material
31 recovery process, commonly referred to as "fines," or processed
32 construction and demolition waste materials.

33 (g) For purposes of this section, "processed construction and
34 demolition waste material" has the same meaning as defined in
35 subdivision (b) of Section 20690 of Title 27 of the California Code
36 of Regulations.

37 ~~SEC. 2.~~

38 *SEC. 3.* No reimbursement is required by this act pursuant to
39 Section 6 of Article XIII B of the California Constitution because
40 a local agency or school district has the authority to levy service

- 1 charges, fees, or assessments sufficient to pay for the program or
- 2 level of service mandated by this act, within the meaning of Section
- 3 17556 of the Government Code.

O